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March 13, 1998

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC. 20554

Via Messenger

Re: Amendment of Part 1 - Competitive Bidding
WT Docket No. 97-82
Comments of Bellingham Corporation
and Pueblo Communications, Inc.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Salas:

Transmitted herewith on behalf of Bellingham Corporation and Pueblo Communications, Inc. is an original and four (4) copies of their Comments filed in the above-captioned proceeding.

Please contact this law firm if you have any questions with respect to this matter.

Respectfully submitted,



William J. Franklin
Attorney for Bellingham Corporation
and Pueblo Communications, Inc.

Encls.

cc: Bellingham Corporation
Pueblo Communications, Inc.
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAR 13 1998

In the Matter of)
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Amendment of Part 1 of the)
Commission's Rules --)
Competitive Bidding)
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FEDERAL COMMUNICATIONS COMMISSION
WT Docket No. 97-82

To: The Commission

COMMENTS OF BELLINGHAM CORPORATION
AND PUEBLO COMMUNICATIONS, INC.

Pursuant to Section 1.429(f) of the Commission's Rules, Bellingham Corporation ("Bellingham") and Pueblo Communications, Inc. ("Pueblo"), by their attorney, hereby file comments supporting the Petition for Reconsideration of Loli, Inc., et al. (the "Loli Petition") with respect to the Commission's modification of Section 1.2110 of its Rules.^{1/}

DESCRIPTION OF THE PARTIES

Bellingham is an IVDS licensee for the Lafayette, Indiana MSA (No. 247A). Pueblo is an IVDS licensee for the Albuquerque, New Mexico MSA (No. 086A). Since receiving their respective IVDS licenses, Bellingham and Pueblo have made extensive studies of the economics and likely uses for the IVDS spectrum. As part of that process, they entered into agreements with IVDS Affiliates, L.C. ("IALC") to acquire equipment from IALC for their respective markets.

^{1/} See Amendment of Part 1 of the Commission's Rules, FCC Rcd _____ (FCC 97-413, released December 31, 1997) (WT Docket No. 97-82) (Third Report and Order and Second Further Notice of Proposed Rulemaking) ("Report and Order").

However, their agreements with IALC were conditioned upon IALC receiving a sufficient number of binding orders for its equipment to permit its manufacture at a reasonable price. Because of a lack of orders by other IVDS licensees, it has not been economically justified for IALC to produce this requirement for immediate installation. IALC's experience has been typical of potential IVDS equipment vendors, and that experience has prevented the successful deployment of IVDS technology.

Both Bellingham and Pueblo made timely down payments and installment payments on their respective IVDS licenses until financial hardship caused each to request grace periods under former Section 1.2110(e)(4) of the Commission's Rules. Consistent with the Commission's then-applicable rules, each had requested a deferral of their installment payments, as well as clarification of the amount and timing of their respective payments.

As existing licensees subject to the Commission's installment payment rules, both Bellingham and Pueblo are directly affected by the Commission's elimination of the rule allowing licensees to file grace-period requests and by the Commission's adoption of an "automatic default" rule.

**THE PUBLIC INTEREST WILL BE SERVED IF THE COMMISSION
GRANTS THE RELIEF REQUESTED IN THE LOLI PETITION.**

Both Bellingham and Pueblo support the various requests for relief requested in the Loli Petition for IVDS licensees, and adopt its arguments herein.

First, the Loli Petition requests (at 2-3 and 7-8) that the Commission clarify that:

[I]t is the Commission's intention to allow IVDS licensees, who have previously filed Grace Period requests, to continue to file Grace Period requests under the current Grace Period rules, rather than under the newly adopted Grace Period provisions.^{2/}

Both Bellingham and Pueblo are eligible for this relief.

Although the Commission stated on January 29, 1997 (DA 97-209), that it intends to initiate a rulemaking to reshape the IVDS rules, this rulemaking has not yet been adopted. Such a rulemaking might potentially reallocate IVDS licenses to another frequency band, modify or vary the IVDS technical rules, or otherwise change the technical and economic parameters of IVDS operation.

In this situation, it could well needlessly force IVDS licensees into bankruptcy^{3/} or default if the Commission were to revise its IVDS installment-payment rules prior to its long-proposed revision of the IVDS technical and service rules. For this reason, the Loli Petition (at 3-4) correctly requested that the Commission suspend all IVDS installment payments until the technical rulemaking is completed, and then re-amortize the outstanding IVDS debt.

^{2/} Loli Petition at 3.

^{3/} The Commission should note that, as far as Bellingham and Pueblo know, no IVDS licensee has been asked to sign a promissory note, security agreement, or UCC-1 form for the unpaid balance of its IVDS license purchase price.

Finally, the Loli Petition (at 4-7) correctly demonstrates that fundamental notions of administrative equality require the Commission to provide IVDS licensees with the same alternatives for resolving the IVDS installment obligations as the Commission has previously made available to PCS licensees. Once the Commission has elected to allow some installment-paying auction winners to modify their financial obligations, it has a heavy burden -- which it has not met here -- to show why that relief cannot be made available to similarly situated licensees.

CONCLUSION

Accordingly, Bellingham and Pueblo respectfully submit that the Commission's retaining the former installment-payment provisions for existing IVDS licensees, as requested in the Loli Petition, will serve the public interest.

Respectfully Submitted,

Bellingham Corporation
Pueblo Communications, Inc.

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Their Attorney

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of Bellingham Corporation and Pueblo Communications, Inc. was sent by U.S. mail, first-class postage prepaid, this 13th day of March, 1998, to:

J. Jeffrey Craven
Janet Fitzpatrick
Patton, Boggs, LLP
2550 M Street, N.W.
Washington, DC 20037

/s/ William J. Franklin
William J. Franklin